

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company	:	
	:	
Proposed Revisions to Rate BES-H,	:	06-0617
Basic Electric Service-Hourly Energy	:	
Pricing (“Rate BES-H”)	:	

ORDER

DATED: December 6, 2006

I.	PROCEDURAL HISTORY.....	1
I.	INTER-RELATIONSHIP BETWEEN THE PRESENT DOCKET AND PRIOR RELEVANT PROCEEDINGS	2
III.	ISSUES.....	4
A.	Overview of Real-Time Pricing (“RTP”).....	4
B.	ComEd’s Tariffs and Compliance with Section 16-107(b-5).....	5
1.	Requirements of Section 16-107(b-5)	5
2.	Testimony	6
C.	Selection Of A Program Administrator And Compliance With Section 16- 107(b-15)	13
1.	Requirements of Section 16-107(b-15)	13
2.	Selection and Compensation of the Program Administrator.....	13
3.	Commission Analysis and Conclusions	15
D.	ComEd Recovery of Program Costs	16
1.	Requirements of Section 16-107(b-25)	16
2.	Cost Recovery Proposal.....	16
3.	Commission Analysis and Conclusions	17
E.	Other Issues.....	18
1.	Changes to Other Tariffs: Rider RCA, GTC, Rider ML, Rate RDS, Rider AC7, and Rate BES-H	18
2.	Proposed Rider RES-RRTP.....	19
3.	Program Administrator Audits and Reports	19
4.	Exemption of Service Term for Customers Who Move.....	20
5.	Program Evaluation Regarding the Initial Four-Year Period	20
6.	Commission Analysis and Conclusions	21
IV.	FINDINGS AND ORDERING PARAGRAPHS	21

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By the Commission:

I. PROCEDURAL HISTORY

On August 29, 2006, Commonwealth Edison Company ("ComEd" or "Company") filed with the Illinois Commerce Commission ("Commission") its Ill. C. C. No. 4, 2nd Revised Sheet No. 336 and 1st Revised Sheet No. 336.1, to be effective October 13, 2006. The purpose of this filing is to comply with the requirements of 220 ILCS § 5/16-107(b-5) of the Public Utilities Act ("Act"), as added by Public Act ("PA") 094-0977. In the filing, the Company proposes revisions to Rate BES-H-Basic Electric Service-Hourly Energy Pricing ("Rate BES-H") that: (a) require retail residential customers taking service under Rate BES-H to continue taking service under Rate BES-H for a period of at least twelve (12) consecutive monthly billing periods; b) describe how ComEd will provide customers with ready access to hourly energy prices.

On September 13, 2006, the Commission entered an Order suspending the effective date of the tariffs to and including January 25, 2007, and initiating this proceeding. Petitions to intervene were filed and granted on behalf of Peoples Energy Services Corporation ("Peoples Energy"), the Cook County State's Attorney's Office ("County"), the People of the State of Illinois ("People"), and the Citizens Utility Board ("CUB"). The City of Chicago ("City") filed an appearance.

On October 30, 2006, ComEd and CUB-City filed simultaneous direct testimonies. ComEd filed the Direct Panel Testimony of Paul R. Crumrine, ComEd's Director of Regulatory Strategies & Services, and Janet Bieniak, ComEd's Manager of Environmental Rates & Administration, ComEd Exhibit 1.0, proposing a new tariff Rider RRTP – Residential Real-Time Pricing Program ("Rider RRTP"), ComEd Exhibit 1.1, describing a Residential Real-Time Pricing Program ("RRTP Program").¹ CUB-City filed the direct testimonies of Christopher Thomas, Lynne Kiesling, and Bernard Neenan in CUB-City Exhibits 1.0, 2.0, and 3.0, respectively, providing the results of a net economic benefit analysis supporting ComEd's RRTP Program.

¹ Implementing ComEd's proposed Rider RRTP and the RRTP Program requires revisions to certain other tariffs and an additional new tariff rider. We address those issues later in this Order.

On November 6, 2006, ComEd, CUB-City, and the Staff of the Commission ("Staff") filed simultaneous reply or rebuttal testimonies, in ComEd Exhibit 2.0, CUB-City Exhibit 4.0, and Staff Exhibit 1.0, respectively, stating: (a) ComEd and CUB-City have reached agreement regarding all substantial issues necessary to implement the RRTP Program; (b) Staff believes that CUB-City provided sufficient evidence for the Commission to approve the RRTP Program; and (c) Staff does not object the adoption of the tariffs proposed by ComEd to implement the RRTP Program.

The People and County acknowledge that hourly pricing is an effective mechanism to promote demand reduction, but took no position on the specific matters in this docket. The People and County do not object to entry of this order.

Pursuant to notice as required by law and the rules and regulations of the Commission, hearings were held in this matter before a duly authorized Administrative Law Judge ("ALJ") of the Commission at its offices in Chicago, Illinois, on October 19 and November 16, 2006. At the hearings, ComEd, Staff, and CUB-City submitted the above-described testimony by affidavit. At the conclusion of the hearings, the ALJ marked the record "Heard and Taken."

At the hearings, the Staff, ComEd and CUB advised the ALJ that they had resolved all matters in controversy. The People and County did not object to the resolution reached by Staff, ComEd and CUB. The parties therefore requested leave to waive briefing, and also filed a Draft Order for the ALJ's consideration. For the reasons set forth below, the Commission adopts Draft Order, as modified by the ALJ, for approval in this proceeding.

I. INTER-RELATIONSHIP BETWEEN THE PRESENT DOCKET AND PRIOR RELEVANT PROCEEDINGS

In Dockets 05-0159 and 05-0597, the Commission approved ComEd's proposal to permit residential retail customers to take market-based, hourly energy pricing service under Rate BES-H beginning January 2, 2007; specifically, Sheet No. 294.10 of Rider CPP – Competitive Procurement Process ("Rider CPP") filed in compliance with the Commission Order entered January 24, 2006, in Docket 05-0159 (effective July 9, 2006), together with ComEd's Rate BES-H, Rider NS – Nonstandard Services and Facilities ("Rider NS"), and Rider ML – Metering-Related Facilities Lease ("Rider ML") filed in compliance with the Commission Order entered July 26, 2006, in Docket No. 05-0597. Those tariff provisions satisfied the requirements of Section 16-107(b) of the Act. On June 30, 2006, PA 094-0977 became effective and added Sections 16-107(b-5) through (b-25) to the Act. The implementation of a residential real-time pricing program was being addressed in ComEd's rate case in Docket 05-0597 at the time PA 094-0977 became effective. As a result, the Commission decided not to address those issues in Docket 05-0597, but rather to address them in a separate proceeding, which became the instant docket.

In the Supplemental Statement, Electricity, ILL. C.C. No. 4, that ComEd submitted on August 29, 2006 with its proposed revisions to Rate BES-H, which were suspended to start this proceeding, ComEd asserted that the tariffs approved in Dockets 05-0159 and 05-0597 satisfied all of the requirements of Section 16-107(b-5), except two: that residential customers electing to take Rate BES-H must continue to take such service for 12 months; and that the tariffs describe the manner in which ComEd will provide customers with ready access to hourly energy prices. In this case, ComEd asserts that its proposed revisions to Rate BES-H address the two requirements not addressed by the previously approved tariffs. No party to this proceeding disagrees with either assertion.

The revisions to Rate BES-H that ComEd filed on August 29, 2006 contain only those revisions necessary for ComEd's compliance with the revisions to Section 16-107. However, Section 16-107 also provides that if the Commission finds that real-time pricing has the potential to provide net economic benefits to residential customers, then ComEd must contract with an entity to administer its real-time pricing program and may, with Commission approval, socialize some or all of the costs of the program over the entire residential customer base. Rider RRTP proposed in ComEd Exhibit 1.1 describes how the RRTP Program will function in the event the Commission, based on the evidence in this proceeding, makes the findings required by Section 16-107.

To implement Rider RRTP, ComEd proposes (in the Direct Panel Testimony of Crumrine and Bieniak) a new Rider RES-RRTP - Retail Electric Supplier - Residential Real-Time Pricing Program ("Rider RES-RRTP") and proposed revisions to Rider RCA - Retail Customer Assessments ("Rider RCA"), General Terms and Conditions ("GTC"), Rider ML, Rate RDS - Retail Delivery Service ("Rate RDS") and Rider AC7 - Residential Air Conditioner Load Cycling Program 2007 ("Rider AC7"). In addition, ComEd proposes one revision on 2nd revised Sheet No. 336 of Rate BES-H filed on August 29, 2006 to explain that the 12-months requirement is necessary during the effective period of Rider RRTP if the customer is taking service under Rider RRTP.

CUB-City Exhibits 1.0, 2.0, and 3.0 purport to support ComEd's proposed RRTP Program and provide evidence that the RRTP Program will yield potential net economic benefits to residential customers. Based on this evidence, CUB-City recommend to charge participants a portion of the program costs and socialize the remaining program costs among all residential customers.

In this Order, the Commission addresses ComEd's compliance with the requirements of Section 16-107(b-5), based upon the tariffs approved in Dockets 05-0159 and 05-0597, together with ComEd's proposed Riders RRTP and RES-RRTP and proposed revisions to Rate BES-H, Rider RCA, GTC, Rider ML, Rate RDS, and Rider AC7. The Commission also addresses, under Section 16-107(b-15), ComEd's selection and compensation of its real-time pricing program administrator. Also, the Commission addresses how ComEd shall recover the costs associated with its RRTP Program under Section 16-107(b-25), and decides the proper allocation of those costs between participants and non-participants.

The Commission does not address Section 16-107(b-20) in this case. Section 16-107(b-20) requires us to monitor the performance of the programs created pursuant to Section 16-107(b-15), and directs us to modify or terminate them if, after a time period not greater than four years, they have not resulted in net benefits to residential customers. The Commission acknowledges that a proceeding must be initiated during the fourth year to address such net benefits and the termination or modification of the RRTP Program, as described in the “Description of the Program” section of the proposed Rider RRTP. The Commission makes no findings in this Order under Section 16-107(b-20), and nothing in this Order shall determine the outcome of future proceedings under Section 16-107(b-20).

III. ISSUES

The parties agree that ComEd’s proposal satisfies the statute, is in the interest of customers, and should be approved. Following enactment of PA 094-0977, ComEd held discussions with Staff, CUB, the City, the AG and the County regarding its RRTP Program and the new statute. The parties considered each other’s recommendations in order to provide the evidence necessary for full Commission assessment of the RRTP Program. The testimony submitted reflects that collaborative effort.

A. Overview of Real-Time Pricing (“RTP”)

Lynne Kiesling, Senior Lecturer in Economics at Northwestern University and witness for CUB-City, provided an overview of the theory behind RTP programs and the general value such programs offer. Dr. Kiesling testified that electric usage, which coincides with the “load” on the electric distribution system, varies over the course of the day and with the season. The general daily pattern is low (off-peak) demand overnight, with a rise in the morning, a high-demand period in late afternoon and early evening (exacerbated by air conditioning on hot days), then a return to lower demand in the evening. The extent of seasonal variance depends customers’ use of electricity for heating and cooling and the degree to which the subject geographic area experiences extreme temperatures. She further explained that the cost of generating and distributing electricity also varies with demand during the course of the day and the seasons. She pointed out, however, that under the fixed retail rates paid by customers under standard retail rate regulation, the price paid bears little relation to the cost of providing electricity in a given hour because consumers have no incentive to change consumption during high cost periods.

According to Dr. Kiesling, this discrepancy among cost, price and consumption results in inefficient energy consumption and inappropriate investment in generation and transmission capacity. With real-time pricing, customers pay the market price for electricity at the time it is consumed, rather than a single, standard rate. RTP thus encourages consumers to lower their usage during high-cost periods. That is the response from buyers in an efficient market, which helps to stabilize prices.

Dr. Kiesling also explains that technological development has spurred the growth of RTP initiatives. An effective RTP requires meters that provide current (rather than monthly) usage information, and that communicate prices to customers. New digital meters provide customers with usage information, and new communications technology (such as the Internet) communicates price levels to customers with sufficient timeliness to allow customers to act. Additionally, the growing availability of RTP programs encourages the development of technology that improves program effectiveness.

Dr. Kiesling asserts that the benefits of RTP programs are extensive and widely agreed upon. The flexibility to respond to price signals results in market power mitigation, lower wholesale electricity prices, better capital utilization and load factors and a reduced need for additional generation and transmission investment. These benefits lead to long-term cost reductions relative to fixed, regulated rates.

Finally, Dr. Kiesling concludes that RTP programs should be voluntary, as ComEd's proposed RRTP Program. Dr. Kiesling testified that "[a]n important policy distinction arises between customers being required to see hourly prices, and customers having the opportunity to see hourly prices. Requiring real-time pricing would both contradict the idea of choice and expose some customers to more price risk than they might choose voluntarily."

B. ComEd's Tariffs and Compliance with Section 16-107(b-5)

1. Requirements of Section 16-107(b-5)

Section 107(b-5) of the Act requires electric utilities that provide electric service to more than 100,000 customers (such as ComEd) to file tariffs "allowing residential retail customers in the electric utility's service area to elect real-time pricing beginning January 2, 2007." 220 ILCS § 5/16-107(b-5). "A customer who elects real-time pricing shall remain on such rate for a minimum of 12 months." *Id.* The Commission may approve the tariffs if, after notice and a hearing, "the Commission finds that the potential for demand reductions will result in net economic benefits to all residential customers of the electric utility." *Id.* When examining the economic benefits, the Commission must, at a minimum, consider the following factors:

- (i) improvements to system reliability and power quality;
- (ii) reductions in wholesale market prices and price volatility;
- (iii) electric utility cost avoidance and reductions;
- (iv) market power mitigation; and
- (v) other benefits of demand reduction.

Id. However, the Commission shall consider those benefits “only to the extent that the effects of reduced demand can be demonstrated to lower the cost of electricity delivered to residential customers.” *Id.* Finally, Section 16-107(b-5) requires that the tariffs, at a minimum, “describe (i) the methodology for determining the market price of energy to be reflected in the real-time rate and (ii) the manner in which customers who elect real-time pricing will be provided with ready access to hourly market prices, including, but not limited to, day-ahead energy prices.” *Id.*

2. Testimony

a. Benefits Provided By RTP Programs

Dr. Kiesling avers that several studies of RTP programs have demonstrated that benefits (or the potential to produce benefits, particularly economic benefits) accrue to participants and non-participants alike. For instance, a 2004 Rand study analyzed the benefits of the GridWise Initiative, a national effort to mandate improved electric service through RTP and related initiatives. Rand estimated the benefits of RTP to range from \$32 billion to \$132 billion. Dr. Kiesling states that studies of RTP programs directed at both commercial and consumer customers showed a very strong customer reaction to price movement that produced the positive effects described above.

Importantly, Dr. Kiesling describes the study performed on ComEd’s pilot RTP program by the Center for Neighborhood Technology’s Community Energy Cooperative (CEC). There were 750 participants in the program when it began in 2003, and that number grew to 1,500 by 2005. Highlights of the benefits listed in the study include the finding that, in 2003, program participants decreased their electricity usage by 4.2% and saved 19.6% on their electric bills. In 2005, on the hottest day of the summer, total electricity consumption among participants was 15% less than that predicted if those customers did not have access to the RTP program. Several findings of the CEC’s study, including the measures of price elasticity, are used in the analyses performed by the witnesses and described below.

b. Expected Net Economic Benefits Of ComEd’s RRTP Program

CUB-City witnesses Bernard Neenan, Lynne Kiesling and Christopher Thomas address the requirement contained in Section 16-107(b-5) that the potential demand reductions that result from ComEd’s RRTP Program, embodied in Rate BES-H as modified by Rider RRTP, must create “net economic benefits to all residential customers of the electric utility.” Those witnesses also address the specific aspects of economic benefit identified in the statute as described in Section III.B.(1) above.

Dr. Neenan testifies to the expected gross benefits of ComEd’s RRTP Program to participants and non-participants. Mr. Thomas testifies to the expected net economic benefits to participants and non-participants by analyzing Dr. Neenan’s identified benefits in light of program costs. Dr. Kiesling discusses the benefits RTP provides with

respect to market power mitigation, consumer choice, innovation and other areas. ComEd concurs with the benefits analyses described by CUB-City's witnesses.

i. Expected Economic Benefits of ComEd's
RRTP Program

Dr. Neenan testifies to all five aspects of economic benefit identified in Section 16-107(b-5). His testimony emphasizes two aspects – reductions in wholesale market prices and volatility and electric utility cost avoidance and reductions – because he could quantify them in dollar terms. He states that the RRTP Program would positively impact the other aspects, but he could not measure them. We will summarize the quantifiable aspects of the RRTP Program benefits first.

Dr. Neenan estimates the gross potential benefits of making the RRTP Program available to ComEd's customers by modeling how price response from 213,000 residential non-heating customers² would affect the level of real-time locational marginal prices ("LMPs") – the prices used by PJM Interconnection, L.L.C., ("PJM") – in the ComEd pricing zone. His analysis produced what he describes as a conservative estimate of benefits to all residential customers, totaling \$32.6 million per year.

Using PJM hourly pricing data for the ComEd zone, as well as data concerning transmission constraints, weather, and operating reserves, Dr. Neenan created a real-time supply curve model that demonstrates how the electricity load in the ComEd zone affects the hourly market LMP. This real-time model, Dr. Neenan testifies, quantifies the economic benefits measured by the impact of changes in supply and demand on LMP. In creating the models, Dr. Neenan employed a measure of customer responsiveness to changes in electricity prices, called "own price elasticity," of -0.047. Dr. Neenan obtained that figure from the CEC's study of ComEd's pilot residential RTP program. Dr. Neenan explains that the -0.047 elasticity figure means that, if the price of electricity doubles, customers reduce their electricity usage by 4.7%, assuming all other factors remain constant.

The model further permitted Dr. Neenan to measure the impact on different categories of customers, including participants in ComEd's RRTP Program and all residential customers (including non-participants). For participants, Dr. Neenan identified four benefits – hedge savings, bill savings, reduced capacity requirements and benefits from increased usage at low RTP prices. Hedge savings occur due to the elimination of a "hedge premium" inherent for customers who pay a single rate. A single rate reflects the very high prices that occur at times of peak system usage - and thus customers usually pay more than market price (i.e., a premium) for electricity. Dr. Neenan testifies that "the premium reflects the forward view of the market and a corresponding expectation for hourly real-time LMPs." RTP avoids the hedge premium by freeing customers to pay the current market price.

² The use of the 213,000-customer participation level is explained below.

Bill savings occur because RTP customers reduce their usage when hourly rates are high. Usage shifted to off-peak hours is less expensive to customers. Kilowatt-hour (“kWh”) usage that is completely foregone will also result in bill savings, because customers pay nothing for electricity not used.

Reductions of customer usage, in turn, reduce the amount of capacity needed by suppliers meeting customers’ demand. Reduced capacity requirements can thus produce lower prices, by decreasing supplier costs. Additionally, according to Dr. Neenan, when RTP causes customers to use more electricity at low prices, customers enjoy increased comfort, safety and convenience.

Dr. Neenan testifies that non-participants in the RRTP Program benefit from RTP through direct price impacts, secondary price impacts and societal benefits. Direct price benefits result from reduced demand from RTP customers, which lowers real-time market prices. At times of peak demand, the supply curve becomes “steep,” meaning that changes in demand have a greater impact on price than they do during times of lower demand, when the supply curve is “flat.” Accordingly, even a small reduction in demand can meaningfully lower price. Real-time market buyers – the electricity suppliers – obtain the benefits of these lower prices, which competitive forces compel them to pass on to their customers. Indirect price benefits result because real-time load reductions have a cascading effect on the entire market. The lower and more volatile LMP prices that result from reduced peak demand place downward pressure on the hedging premium, and thus lower prices, for single-rate customers.

Finally, Dr. Neenan maintains that overall societal benefits occur because consumption prices more closely track the marginal cost of supply, allowing for more efficient use of resources in the economy generally.

ii. Quantification Of RTP Benefits

Dr. Neenan quantifies the benefits provided by the RRTP Program at three levels, Base Case, Mid Case and High Case. These levels present an ascending continuum of benefits, from lowest (Base Case) to highest. According to Dr. Neenan, the variance in the cases hinges upon the expected level of the LMPs – the higher the LMPs, the greater the benefit provided by RTP. The LMP levels depend upon circumstances in the market, driven primarily by weather and economic conditions. Dr. Neenan developed the Base Case using recent market data and price elasticity information reported in the CEC’s 2005 assessment of ComEd’s pilot RTP program. The Mid Case and the High Case employ higher LMPs, which produce greater benefits.

Dr. Neenan estimates the total Base Case benefits at \$21.5 million per year. Of that total, residential customers would achieve \$18.6 million in savings (\$15.3 million to RRTP Program participants and \$3.3 million to other residential customers). Dr. Neenan estimated the Mid Case at \$32.6 million per year, with residential customers achieving \$23.1 million in benefits (\$15.8 million to RRTP Program participants and \$7.3 million to other residential customers). For the High Case, the total benefits are an

estimated \$77.0 million per year, with residential customers achieving \$59.4 million in benefits (\$43.9 million for RRTP Program participants and \$15.5 million to other residential customers).

Dr. Neenan recommends that the Commission base its analysis on a weighted average of the three cases. He developed a weighted average by estimating the likelihood that each of the three scenarios would occur in later years. He testifies that the Base Case has a .57 chance of occurring, the Mid Case has a .29 chance of occurring and the High Case has a .14 chance of occurring. Applying those weights to the expected benefits for each case produces an estimated \$25.6 million in benefits to residential customers from the RRTP Program (\$19.5 million to participants, \$6.1 million to non-participants), which Dr. Neenan suggests the Commission use in its consideration of this issue.

However, Dr. Neenan believes that RTP can offer even greater benefits through increased price elasticities, which can realistically be achieved through a customer information campaign that creates a more robust participant response to price changes. He estimates that a reasonable first step improvement in own-price elasticity to $-.096$ would produce \$34.4 million in benefits to residential customers (\$23 million to participants, \$11.4 million to non-participants). An increase to $-.141$, the target elasticity of a well-designed RTP plan, would create \$41.9 million in benefits to such customers (\$26 million to participants, \$15.9 million to non-participants).

Dr. Neenan's analysis purports to quantify the gross economic benefits that the RRTP Program can achieve. Section 16-107(b-5), however, requires that the Commission consider the *net* economic benefits from the program, which necessitates an evaluation of the RRTP Program's expected costs. CUB's Mr. Thomas supplied the cost analysis, which ComEd supports. He estimates that the RRTP Program would cost \$16.9 million, which when offset against the \$32.6 million in gross benefits estimated by Dr. Neenan, produces a total net economic benefit of \$15.7 million, \$8.7 million of which relates to the residential customer class.

Mr. Thomas's estimate rests upon the following four assumptions: (i) that the RRTP Program has 213,000 customers; (ii) incremental metering costs are \$5.36 per participant per month; (iii) ComEd's uncollectibles will be 0.72% of its total billed charges; and (iv) total program administration costs will amount to \$3,132,321 per year. Each assumption is discussed below.

At 213,000, the estimated number of RTP participants equals approximately 7% of ComEd's total residential customers. Although that figure initially appears high, Mr. Thomas provides three reasons that establish its reasonableness. First, the estimate is that of a "mature" RRTP Program, which Mr. Thomas defines as having been in existence for seven years. Survey data from the CEC study indicates that nearly 40% of ComEd's customers expressed interest in a variable rate electricity pricing plan, and that over 5% stated that they "definitely" were interested. According to Mr. Thomas, that data indicates that the 7% estimate is realistic. Second, Mr. Thomas testifies that the

expected increase in residential electricity rates beginning in 2007, combined with the fact that rates will vary from year-to-year going forward, creates uncertainty with respect to electricity prices, and likely will cause customers to perceive value in taking control of their energy consumption through RTP. Third, the RRTP Program requires the administrator of the program to engage in education and outreach, including the use of bill inserts to promote RTP two times per year. These efforts, in Mr. Thomas' view, will increase the visibility of the RRTP Program and likely attract customers.

The \$5.36 in incremental meter costs appears in ComEd exhibit 46.1 in Docket No. 05-0597. That figure represents the difference between the standard meter lease fee of \$1.92, and the advanced meter lease fee of \$7.28 set forth in Rider ML.

In Docket 05-0597, the Commission approved inclusion of uncollectibles expense in all of the charges billed by ComEd. This has the effect of increasing all billed charges by 0.72%, and thus any incremental increase in charges, such as the meter lease fee, is further increased by 0.72%.

Mr. Thomas estimates RTP administrative costs at \$3,132,321, by extrapolating the CEC study cost data to a program with 213,000 participants. The CEC estimated that an RRTP Program with 45,000 customers would entail \$1,882,401 in administrative costs, and a program with 100,000 customers would entail \$2,291,551 in such costs. The cost increase between the 45,000 customer estimate and the 100,000 estimate equals \$409,150, or \$7.44 per customer. Thus, starting with the baseline of a 45,000 customer program with \$1,882,401 in administrative costs, a 213,000 customer program would have \$3,132,321 in administrative costs ($\$1,882,401 + \$7.44 * (213,000 - 45,000) = \$3,132,321$).

The above-described components produce a total estimated cost of \$16.9 million for ComEd's RRTP Program. Subtracting those costs from the \$32.6 million estimate of the program's benefits prepared by Dr. Neenan produces a net economic benefit of \$15.7 million. Residential customers receive \$8.7 million in net benefits – the \$25.6 million in benefits that inure to the benefit of residential customers less the full \$16.9 million in program costs.

iii. Additional RTP Benefits

The analysis above addressed and quantified two aspects of net economic benefit the Commission must consider under Section 16-107(b-5) (reduction in wholesale prices and price volatility, and electric utility cost avoidance and reductions). Dr. Neenan and Dr. Kiesling aver that the RRTP Program has other benefits as well. Dr. Kiesling testifies that RTP can produce market power mitigation – one of the other aspects identified by the statute – because customer responses to price reduce the incentive of electricity suppliers to withhold supply as a means of raising LMP. In other words, customers' ability to respond to high prices by reducing demand constrains the ability of suppliers to increase prices. Dr. Neenan stated that a long-term study could measure the impact. Similarly, Dr. Kiesling testifies that RTP can boost reliability and

power quality – the other statute-specified aspect of economic benefit – because reduced load in critical circumstances can avert the consequences of operating reserve shortfalls. Dr. Kiesling contends that reducing demand inherently acts to moderate strains on the system, and reduces the need for additional transmission investment. Finally, Dr. Neenan and Dr. Kiesling testified that RTP fosters competition and promotes technological innovation, risk management and service choices.

iv. ComEd's Position Regarding RTP Benefits

ComEd believes that the foregoing testimony contains sufficient data to demonstrate the potential net economic benefits of its RRTP Program, and that the Commission can base this Order on that data. (The actual performance of the RRTP Program will be measured by testing actual customer responsiveness during the recommended four-year assessment period following initiation of the program.) Mr. Crumrine and Ms. Bieniak argue that the analysis of benefits to non-participating customers is understated, because Mr. Thomas' gross-up for uncollectibles, while appropriate for rate-setting purposes, should not apply to the cost-benefit analysis for metering costs, which do not increase if some customers do not pay their bills.

v. Staff's Position Regarding RTP Benefits

Staff witness Schlaf recounts the various factors the Commission must consider under Section 16-107(b-5) in determining whether the potential for demand reductions will result in net economic benefits to all residential customers. Dr. Schlaf opines that it is reasonable to conduct a cost-benefit analysis to assess whether the RTP tariffs meet the net benefits requirement in Section 16-107. Dr. Schlaf further testifies that, while Staff may not agree with all of the assumptions in CUB's net economic benefits calculation, CUB's conclusion that the RRTP Program may be expected to result in net economic benefits for the residential class is supported by CUB's analysis.

c. Descriptions of Pricing Methodology and Manner of Providing Customers With Ready Access to Hourly Market Prices.

ComEd witnesses Crumrine and Bieniak describe how the RRTP Program would function. With regard to the requirement of Section 16-107(b-5) that the tariffs describe the methodology by which the market price of electricity would be determined, the Capacity Supply Charge and the Hourly Energy Supply Charges section of Rate BES-H sets forth the pricing methodology, which the Commission approved in Docket 05-0597.

Briefly stated, the methodology is as follows: the Capacity Supply Charge for a residential customer is applicable to the Capacity Obligation established for the customer during the monthly billing period and is equal to (a) the Hourly Segment Supply Charge computed in accordance with the provisions in Rider CPP, multiplied by (b) 1.0007 to adjust for supply-related uncollectible costs incurred by ComEd.³ Hourly

³ This Capacity Supply Charge methodology is used to determine charges applicable to all retail

Energy Supply Charge is determined for each hour during the monthly billing period and is equal to (a) the PJM real-time, LMP for the ComEd Zone for the hour, multiplied by (b) 1.0675 to adjust for distribution and transmission losses, and multiplied by (c) 1.0007 to adjust for supply-related uncollectible costs incurred by ComEd.⁴ Each hourly charge is applicable to each kWh provided to the customer during the hour for which the charge is determined.

The proposed revisions to Rate BES-H filed on August 29, 2006, as well as proposed Rider RRTP in ComEd Exhibit 1.1, describe how the internet will provide customer access to hourly market prices. Hourly prices established by PJM (the regional transmission organization ("RTO") to which ComEd belongs) for the ComEd Zone, listed in Eastern Prevailing Time, are available on PJM's website. Additionally, ComEd posts on its website "indicative day-ahead hourly energy prices and indicative real-time hourly energy prices" determined from the PJM prices for the ComEd Zone. The indicative hourly energy prices are listed in Central Prevailing Time and include adjustments for line losses and supply-related uncollectible costs as described in the Hourly Energy Supply Charges section of Rate BES-H. The amendments made by the proposed revisions to Rate BES-H and the proposed Rider RRTP further provide that the indicative day-ahead hourly energy prices are posted on the website on a day-ahead basis in the form of twenty-four hourly energy prices beginning with the hour from 11:00 p.m. of the present day to 12:00 a.m. of the following day. The indicative real-time hourly energy prices are posted on the website on a day-after basis in the form of twenty-four hourly energy prices beginning with the hour from 11:00 p.m. of two days before to 12:00 a.m. of the day before.

Mr. Crumrine and Ms. Bieniak state that the proposed revisions to Rate BES-H and proposed Rider RRTP require residential retail customers who elect to take service under Rate BES-H and Rider RRTP to continue to take service under Rate BES-H for 12 consecutive months to satisfy the requirement of Section 16-107(b-5).

3. Commission Analysis and Conclusions

The foregoing evidence establishes that ComEd's RRTP Program, as implemented by its current tariffs, by proposed revisions to Rate BES-H and by proposed Rider RRTP, satisfies Section 16-107(b-5). Based upon Dr. Kiesling's testimony regarding the merits of RTP, and Dr. Neenan's economic benefit analysis (which provided a conservative estimate of \$25.6 million in annual gross benefits to residential customers), and Mr. Thomas' cost analysis (which estimated total annual program costs at \$16.9 million), the Commission concludes that anticipated demand reductions from the RRTP Program will produce a net economic benefit to residential customers of at least \$8.7 million. The Commission also finds that the anticipated demand reductions will likely produce economic benefits due to improved system

customers taking service under Rate BES-H, with the exception of customers in the Self-Generation Customer Group.

⁴ This Hourly Energy Supply Charge methodology is used to determine charges applicable to all retail customers taking service under Rate BES-H.

reliability, power quality, market power mitigation and promotion of competition (although those benefits cannot be presently quantified). Additionally, the tariffs adequately describe the methodology for deriving hourly market prices and the manner in which customers participating in the RRTP Program will receive access to hourly market prices. We further find that a customer must participate in the RRTP program for at least twelve consecutive months. Additionally, we determine that the potential for demand reductions will result in net economic benefits to all ComEd residential customers. Accordingly, pursuant to Section 16-107(b-5), the Commission approves the tariffs and proposed Rider RRTP that implement ComEd's RRTP Program.

C. Selection Of A Program Administrator And Compliance With Section 16-107(b-15)

1. Requirements of Section 16-107(b-15)

Section 16-107(b-15) provides that, upon approval of RTP tariffs pursuant to Section 16-107(b-5), the electric utility must contract with an unaffiliated entity to serve as a Program Administrator, who will provide customer outreach, enrollment and education concerning the RRTP Program, and will establish and administer an information system and technical and other customer assistance. The Program Administrator: (i) shall be selected and compensated by the electric utility, subject to Commission approval; (ii) shall have demonstrated technical and managerial competence in the development and administration of demand management programs; and (iii) may develop and implement risk management, energy efficiency, and other services related to energy use management for which the Program Administrator shall be compensated by participants in the program receiving such services.

Under Section 16-107(b-15), the electric utility shall also provide the Program Administrator with the information and assistance necessary for the administrator's duties, including (but not limited to) customer, account and energy use data. Additionally, the electric utility shall permit the Program Administrator to include inserts in residential customer bills twice per year to assist with customer outreach.

2. Selection and Compensation of the Program Administrator

a. The Request for Proposal

To select the non-affiliated Program Administrator for the RRTP Program, ComEd will employ a Request for Proposal ("RFP") process. CUB-City concur in that process, described below, and agree that it is reasonable.

ComEd prepared RFP materials (ComEd Exhibit 1.2) and sent them to over sixty Retail Electric Suppliers ("RESs"), consulting groups and other entities, including five energy/demand response associations. ComEd made a special effort to solicit organizations in New York, which has recently implemented an RTP program.

In the RFP materials, ComEd states that the winning bidder must do the following: (1) develop and implement a program to provide consumer outreach, enrollment and education; (2) establish and administer an information system and provide technical and other customer assistance related to customer management of electricity use; (3) develop and submit an annual report to ComEd no later than April 1 of each year beginning 2008, describing the operation and results of the program, including information on the number and types of residential retail customers taking RTP service, changes in energy use patterns, and assessment of the value of RTP to both participants and non-participants, and recommendations regarding modifications to the program from interested parties; (4) participate in any Commission proceeding or investigation into the benefits or effectiveness of the Program, including development of reports or testimony requested by the Commission or its Staff; and (5) provide participating customers with monthly usage and estimated savings information.

The RFP process is not complete, and the identity of the Program Administrator is not presently known. However, the organizations to whom ComEd sent the RFP are described above. ComEd requests approval of the RFP process as a reasonable means of selecting a Program Administrator.

b. The Program Administrator Agreement

The Program Administrator Agreement ("Agreement") will contain the terms and conditions for administering the RRTP Program. ComEd shared a draft of the Agreement with the parties to this proceeding. CUB requested an additional change to the Agreement, to require an annual telephone conference between the Program Administrator and interested parties concerning the annual report and potential program modifications. ComEd agreed, added Section 20.3 to the Agreement, and submitted the revised Agreement at the hearing as ComEd Ex. 4.0. Accordingly, the Agreement represents a collaborative effort by ComEd and the parties. ComEd anticipates that the Agreement will be signed in substantially the same form as submitted to the Commission⁵.

ComEd proposes that, once the RFP process produces a Program Administrator and the Agreement is executed, ComEd will make a compliance filing with the Commission that includes the executed Agreement. Because the Commission will have approved both the RFP process and the Agreement under which the winning bidder will operate as the Program Administrator, ComEd asks that approval of the RFP process and the Agreement be considered approval of the Program Administrator, and states that that approval will be perfected by the compliance filing that lodges the executed Agreement with the Commission.

⁵ Conceivably, the description of the services (Appendix A to the Agreement) could change slightly to include greater details once the winning bidder emerges from the RFP process. In that process, ComEd asked each bidder to describe in detail how it will implement the services described above. In order to bind the winning bidder to what it offers to provide, ComEd intends to include the descriptions provided by the winning bidder in Appendix A. Importantly, the actual services to be provided by the Program Administrator will not change and are not subject to negotiation.

c. Program Administrator Compensation

The actual compensation of the Program Administrator, and thus the cost of the Program Administrator, will be determined by the winning bid in the RFP process. Therefore, the precise compensation figure will not be known until the RFP process is complete. ComEd provided a placeholder in ComEd Exhibit 1.4 for the costs of the Program Administrator based on information in ComEd Exhibit 23.2 filed in Docket No. 05-0597, which CUB-City attached as CUB-City Exhibit 1.05. If actual costs differ from the estimate, ComEd will provide that information to the Commission, as part of the compliance filing of the executed Program Administrator Agreement, and to all parties, following the selection of the Program Administrator.

d. Program Administrator and the Integrated Distribution Company ("IDC") rules

The Program Administrator Agreement provides that the Program Administrator will function as an independent contractor and not as a ComEd agent. The Program Administrator will have no authority to bind or commit ComEd, none of its acts or omissions may be imputed to ComEd and the Program Administrator can make no contrary representation. ComEd believes such non-agent, independent contractor status will exempt the Program Administrator from IDC rules forbidding efforts to retain or obtain retail electric customers - because applicable rules pertain only to an IDC "employee" or "agent." 83 Ill. Adm. Code § 452.240(e). Additionally, Section 16-107(b-15) specifically requires the Program Administrator to provide consumer outreach, enrollment and education, which strongly suggests that such activities do not offend IDC rules in the context of RTP. CUB-City agrees that the Program Administrator will not be subject to, and thus does not require training in, IDC rules.

3. Commission Analysis and Conclusions

The Commission finds that the RFP was sent to a qualified pool of applicants, and finds that the RFP process constitutes a reasonable means of selecting the most suitable party among that qualified group to serve as Program Administrator. We also finds that the terms of the Program Administrator Agreement are reasonable, as is the estimated compensation of the Program Administrator. Furthermore, we agree with ComEd that since the Program Administrator will be an independent contractor and not an agent, and because Section 16-107(b-15) requires the Program Administrator to perform certain services, IDC rules are inapplicable to the activities of the Program Administrator.

Finally, although the identity of the Program Administrator is not yet known, we are presently aware of the parties solicited for that role, and we have approved both the RFP process and the Agreement that will govern Program Administrator's conduct. We also have an estimate of the Program Administrator's compensation. Accordingly, once the party selected through the RFP process executes the Agreement, that party shall be deemed approved as Program Administrator by the Commission. We direct ComEd to file the executed Agreement (together with the updated cost exhibit and Rider ML

updated with the cost information from the executed Agreement) with the Commission when the identity of the Program Administrator and the level of compensation are known. The Commission thus approves, as the Program Administrator, the entity selected through the RFP process that executes the Agreement, and we also approve the Program Administrator compensation that results from that process, subject to ComEd making the compliance filing described here.

D. ComEd Recovery of Program Costs

1. Requirements of Section 16-107(b-25)

Section 16-107(b-25) allows an electric utility to recover the reasonable costs of providing an RTP program, provided that such costs are fairly apportioned among residential customers. In addition to RTP program participants, non-participant customers can also bear costs, if we determine that cost savings resulting from the program will exceed costs imposed upon customers for maintaining the program.

2. Cost Recovery Proposal

The Commission found, above, that ComEd's RRTP Program produces a net economic benefit to all residential customers, both participants and non-participants (that is, the benefits of the RRTP Program outweigh its costs). However, to permit recovery of costs from *non-participants* (who receive less benefit than participants), such customers must not endure a cost share that exceeds their benefits. Accordingly, Mr. Thomas recommends a combination of an increase in the general customer charge for all residential customers, and an RRTP Program participant charge.⁶ Because ComEd would thus recover its costs from two separate fees – one from participants and the other from all customers – an increase in one fee will lower the other. In determining the amount of each fee, Mr. Thomas would set the participation fee at the lowest possible level that will still result in net cost benefits for non-participants.

The parties agree on fee levels. Customers participating in the RRTP Program would be assessed a \$2.25 monthly participation fee (subject to change based on the terms of the executed Program Administration Agreement). All ComEd residential customers would be assessed a \$0.17 charge, to be incorporated in ComEd's monthly customer charge. The basis for those specific charges is explained below.

Because each customer that participates in the RRTP Program will increase program costs, and because the number of customers eligible for the program is not fixed in ComEd's proposal, ComEd's costs of implementing and administering the program cannot be known in advance. Consequently, the proper amount to charge participants and all customers cannot be known. Therefore, Mr. Thomas recommends a "cap" on the number of participants for whom a portion of costs will be "socialized"

⁶ In ComEd's rate case (Docket 05-0597), Mr. Thomas advocated a plan containing no participation fee. However, after considering Dr. Neenan's calculations and the short time frame in which the program has to be implemented, Mr. Thomas concludes in this proceeding (CUB-City Exhibit 1.0) that a participation fee is appropriate because participants will still achieve significant savings.

(i.e., borne by all residential customers). Mr. Thomas proposes a 110,000-customer cap, beyond which a participating residential customer will pay the full costs of taking RTP service (including metering⁷ and administration costs). Mr. Thomas maintains that this is not a cap on participation, although it increases costs for late-coming customers, thereby reducing their incentive to participate in the RRTP Program.

To quantify the benefits customers will receive from the RRTP Program, Mr. Thomas proposes that benefits be calculated using Dr. Neenan's reasonable "First Step" price elasticity level (-.96) should be used. Under that model, participants will receive \$23 million in benefits and non-participants will receive \$11.4 million in benefits.

Mr. Thomas also calculates that annual meter lease and administration costs would equal \$16,931,122. With 213,000 participants paying a \$2.25 monthly fee, participants would cover \$5,751,000 of the \$16,931,122 in costs. Subtracting that sum from the \$23 million in expected benefits produces a net benefit for participants of \$17,249,000. The remaining \$11,180,122 in costs would be covered by the increased general residential customer charge. At that level, the projected \$11.4 million in benefits to the non-participants exceeds their costs by \$219,878. Based on the expected number of participants during the first four-year period, Mr. Thomas finds that residential customers would be charged approximately \$0.17 per month through ComEd's customer charge. Accordingly, using a \$2.25 participant charge and a \$0.17 increase to the general customer charge for all residential customers, program benefits will exceed costs for both participants and non-participants, justifying ComEd's recovery of those costs from both customer groups.

Because Program Administrator costs comprise a portion of the total cost of the RRTP Program, exact program cost cannot be known until the Program Administrator's compensation is determined. Mr. Thomas, Mr. Crumrine and Ms. Bieniak testify that if actual Program Administrator costs exceed the estimates here, charges will be adjusted in the compliance filing following selection of the Program Administrator. ComEd states that any resulting fee increase will be assigned solely to participants, to ensure that non-participants receive net benefits from the RRTP Program.

Staff witness Dr. Schlaf testifies that there are two basic methods to recover RTP program costs: estimate the level of RTP costs and impose fixed charges on participants and non-participants; or track costs as they are incurred and impose charges on participants that recover those actual costs. Given testimony by others that a cost-tracker mechanism would be difficult to implement prior to 2007, Dr. Schlaf states that setting the charges in advance of the program, as ComEd proposes, appears to be the best option at this time.

3. Commission Analysis and Conclusions

⁷ The monthly charge for a meter suitable for real-time pricing is \$7.28. ComEd Ex. 1.0 at 20. The corresponding charge for an ordinary cumulative meter is \$1.92. *Id.* A new customer enrolling in the RRTP Program after 110,000 other customers have enrolled would pay the entire \$5.36 monthly difference.

Based upon the evidence adduced, the Commission finds that the benefits to residential customers that participate in the RRTP Program, and to customers that do not participate, exceed program costs. Therefore, under Section 16-107(b-25), ComEd should be allowed to recover costs from both customer groups. We find that the allocation of the costs between participants and non-participants proposed by Mr. Thomas is reasonable. Keeping the participation fee at a low level provides the greatest possible incentive for customers to select RTP, which is the goal of the program. Additionally, we find that the 110,000 customer cap on the number of RRTP participants that will pay a reduced participation fee of \$2.25 per month is a reasonable solution to the problem of determining proper fees when costs are not presently known⁸.

The Commission therefore finds that ComEd should: (1) impose a \$2.25 monthly participation fee on the first 110,000 customers as described in Rider ML; (2) impose the full cost of participation on additional customers participating in the RRTP Program after the first 110,000 customers; and (3) impose a \$0.17 charge to be incorporated with its monthly customer charge on all residential customers as described in Rider RCA. However, should the actual costs of the Program Administrator exceed the estimates here, ComEd should adjust the monthly participation fee to cover the increased amount.

E. Other Issues

The parties raise several additional matters requiring our resolution. Each is discussed below.

1. Changes to Other Tariffs: Rider RCA, GTC, Rider ML, Rate RDS, Rider AC7, and Rate BES-H

ComEd asserts that full implementation of the RRTP program requires certain additional tariff changes. First, ComEd contends Rider RCA should be revised to include a \$0.20 per month charge for recovery of program costs from all residential customers with no participation fee. As previously described, this amount would be reduced to \$0.17 per month, due to the \$2.25 program participation fee.

Second, ComEd proposes revising the Required Metering section of GTC to show that customer participation in the RRTP Program is dependent upon installation of the required metering. ComEd would also revise the Nonstandard Metering section of GTC to waive the meter exchange or installation charge (for a single delivery point) for the first 110,000 customers in the RRTP, and to exempt customers from such charges when they terminate participation in the program.

Third, ComEd wants to amend Rider ML to reduce the monthly meter rental charge, for a single delivery point, for the first 110,000 RTTP customers. Fourth, ComEd avers that Rate RDS must be revised so that a customer using an RTP's

⁸ We note that ComEd will monitor customer participation in the program in order to maintain the number of active participants receiving the monthly metering cost discount at 110,000. ComEd Ex. 1.0 at 13.

service offering under the RRTP Program cannot obtain metering service from a Metering Service Provider. CUB-CITY believes that all of the foregoing tariff changes are reasonable.

Fifth, ComEd proposes one revision on 2nd revised Sheet No. 336 of Rate BES-H (filed on August 29, 2006) to be consistent with similar provisions proposed in Rider RRTP. No party opposes this change or 1st revised Sheet No. 336.1 of Rate BES-H and no additional change is proposed for this tariff sheet.

Additionally, Mr. Thomas maintains that ComEd's Rider AC7 prohibits customers from participating in both Rider AC7 and the RRTP Program. He believes such prohibition is a barrier to the RRTP Program, because Rider AC7 customers are likely RRTP Program candidates. Mr. Crumrine and Ms. Bieniak contend that the pricing structure for customers on Rider AC7 is incompatible with the pricing structure for the RRTP Program. However, ComEd is willing to temporarily accept this pricing imperfection, until it devises a better price structure for customers using both Rider AC7 and the RRTP Program. Accordingly, ComEd proposes revision to Rider AC7 (as provided in ComEd Exhibit 1.9) to permit customers taking service under Rider AC7 to also take service under Rate BES-H.

2. Proposed Rider RES-RRTP

ComEd's proposed Rider RES-RRTP contains the conditions under which a RES can offer an RTP program to its customers with certain services provided by the Program Administrator. Under Rider RES-RRTP, a RES must sign a Rider RES-RRTP contract addendum with ComEd that includes a sworn statement about the program, and must continue to meet its obligations for coordination between the RES and ComEd to implement the RES's RTP program. CUB-City agree to ComEd's Rider RES-RRTP.

3. Program Administrator Audits and Reports

Mr. Thomas proposes that the Program Administrator be required to submit to an annual audit of the RRTP Program by an independent third party auditor, which will be filed with the Program Administrator's annual report. Mr. Thomas testifies that:

independent third-party audit of the Program Administrator is consistent with the spirit of the Real-Time Pricing law and important for the overall success of the program. Pursuant to section 16-107(b-20), the Commission is required to monitor the performance of the RRTP Program. An independent financial audit of the Program Administrator will provide the Commission with additional information to evaluate the program. In addition, an audit will help ensure that resources are being spent in an effective manner and that the resources spent by the Program Administrator are best serving consumers.

ComEd agrees to this proposal, which is reflected in the proposed Program Administrator Agreement, and which also reflects the parties' consensus.

To implement section 16-107(b-15), Mr. Thomas additionally recommends that the Program Administrator's annual report be filed with the Commission and posted on the Commission's web site. Mr. Thomas states:

...in order to foster public comment that will aid the administrator in maximizing the public benefits of the program, the following [four] steps should be implemented. First, following the publication of the annual report on the Commission's website, a 30 day period should be given for the public to comment on the annual report. Second, public comments should be posted on the Commission's website in conjunction with the annual report. Third, 15 days after the close of the public comment period, the Program Administrator should be required to facilitate a telephone conference where the annual report and public comments will be discussed with interested participants. The Program Administrator would not be required to implement any of the suggestions raised during the telephone conference, but the Program Administrator would be free to implement those changes that it believes are practical, cost-efficient and pragmatic. [Fourth], in conjunction with the annual report telephone conference, the Commission should provide notice of the meeting on its web site and send notice to the parties in this docket."

ComEd agrees that the Program Administrator's annual report should be subject to a public comment period, and that the Program Administrator may implement modifications to the report that are proposed through public comment. Indeed, all parties agree that such dialogue serves the interests of the program and the public.

4. Exemption of Service Term for Customers Who Move

Mr. Thomas proposes that ComEd provide an exemption from the twelve-month service term for customers who change residences during their first twelve months in the RRTP Program. Mr. Thomas says that "this provision is necessary to protect customers who have to move unexpectedly due to changes in their jobs or other unforeseen circumstances." ComEd concurs. ComEd also agrees that customers who leave the RRTP Program after twelve months will not be assessed any additional charges or fees.

5. Program Evaluation Regarding the Initial Four-Year Period

Staff witness Dr. Schlaf and Mr. Thomas agree that the evaluation of the benefits of the RRTP Program, including whether the program should continue after its initial

four-year period, should depend on data collected during the life of the program, not on analyses and testimony used to support adoption of the program. Dr. Schlaf thus recommends that this Order emphasize that approval of Rider RRTP is not intended to limit or proscribe in any way the analyses or methodologies that Staff and other parties may submit or propose in subsequent proceedings to consider continuation of the program.

6. Commission Analysis and Conclusions

The Commission finds that all of the above-described proposals are reasonable, prudent and will benefit the RRTP Program. Specifically, we find that ComEd's Residential Real-Time Pricing Program Cost Recovery Charge proposed in Rider RCA for residential customers should be \$0.17 per month, ComEd's proposed revisions to GTC, Rider ML, Rate RDS, Rider AC7, and Rate BES-H should be approved, as should ComEd's proposed adoption of Rider RES-RRTP.

Further, we find that the Program Administrator should undergo an annual financial audit by an independent third party, which should shall be included with the Program Administrator's annual report to ComEd. We also find that the Program Administrator's annual report shall be subject to a public comment period, followed by a telephone conference among the Program Administrator and all interested parties to discuss the annual report, the audit and public comments. In conjunction with the annual report, the Commission shall also notify the public by posting notice on the Commission's website and serving notice on the parties in this Docket.

As Mr. Thomas recommends, we additionally find that customers who change residences within their first twelve months in the RRTP Program should be exempted from the requirement that they remain on Rate BES-H for at least twelve months.

In addition, the Commission's approval of Rider RRTP is not intended to limit or to proscribe in any way the analyses or methodologies that Staff and other parties may submit or propose in subsequent proceedings concerning continuation of the Program.

IV. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein and being fully informed in the premises, is of the opinion and finds that:

- (1) Commonwealth Edison Company is an Illinois corporation engaged in the transmission, distribution, and sale of electricity to the public in Illinois and is a public utility as defined in Section 3-105 of the Public Utilities Act;
- (2) the Commission has jurisdiction over the parties and the subject matter herein;

- (3) the recitals of fact and conclusions of law reached in the prefatory portion of this Order are supported by the evidence of the record, and are hereby adopted as findings of fact and conclusions of law;
- (4) the terms of proposed Rider RRTP, together with the proposed revised terms of Rate BES-H, allow residential retail customers to elect real-time pricing beginning January 2, 2007, and require residential customers who elect real-time pricing to remain on such rate for a minimum of 12 months, and describe the methodology for determining the market price of energy reflected in the real-time rate, and describe how customers who elect real time pricing will be provided with ready access to hourly market prices;
- (5) the record demonstrates that the potential for demand reductions from real-time pricing will result in net economic benefits for all of ComEd's residential customers;
- (6) the expected benefits to residential customers of ComEd's real-time pricing offering exceed the expected costs of that offer;
- (7) the allocation of the estimated costs between participants and non-participants as recommended by the parties – a \$2.25 participation fee and a \$0.17 charge to be incorporated with the monthly customer charge imposed upon all residential customers – is reasonable and the expected benefits to each group of residential customers will exceed the costs to each group;
- (8) based on the prior four findings, the proposed Rider RRTP, together with Rate BES-H with proposed revisions, satisfies the requirements of Section 16-107(b-5) of the Act and the proposed Rider RRTP; therefore, the proposed revisions to Rate BES-H should be approved;
- (9) the RFP process adopted by ComEd is a reasonable means by which ComEd can select a Program Administrator, as required by Section 16-107(b-15);
- (10) the terms of the Program Administrator Agreement that will be signed by the entity selected as Program Administrator in the RFP process are reasonable;
- (11) the Program Administrator will be an independent contractor and its activities will not be subject to the IDC rules;
- (12) the estimated compensation of the Program Administrator is reasonable;
- (13) upon completion of the RFP process, and after ComEd and the entity selected as the Program Administrator execute the Program Administrator

Agreement, ComEd should file the executed Program Administration Agreement with the Commission, together with the updated cost exhibit and Rider ML, updated with the cost information from the executed Agreement; Commission approval of the Program Administrator selected through the RFP process who executes the Agreement, and Commission approval of the Program Administrator's compensation resulting from that process, are subject to ComEd's making the compliance filing described here;

- (14) ComEd's recovery of the costs of its real-time pricing program through the participation fee and increased customer charge should be approved;
- (15) if the actual costs of the real-time pricing offer exceed estimated costs as a result of higher cost in the executed Program Administrator Agreement, it is reasonable for ComEd to increase the participation fee as necessary to recoup such excess costs;
- (16) the proposed revisions to Rider RCA, to General Terms and Conditions, to Rider ML, to Rate RDS, and to Rider AC7, are all reasonable and should be approved;
- (17) proposed Rider RES-RRTP is reasonable and should be approved;
- (18) the Program Administrator shall submit to an annual financial audit conducted by an independent third-party; results of such audit shall be submitted with each annual report to ComEd by April 1, beginning in 2008, and to the Commission and general public thirty days thereafter;
- (19) following publication of the annual report on the Commission's web site, a 30-day period should be established for public comment on the annual report; public comments should be posted on the Commission's web site with the annual report; Within fifteen days of the 30th day after the public comment period, the Program Administrator should facilitate a telephone conference in which the annual report, audit and public comments should be discussed with interested parties; the Program Administrator and the interested parties should endeavor to agree upon a convenient time and date for the telephone conference; the Commission should provide notice of the telephone conference by notifying the parties in this Docket and posting notice on the Commission's web site in the same location as the Program Administrator's annual report; and
- (20) upon completion of the RFP process and execution of the Program Administrator Agreement, ComEd should make a compliance tariff filing that identifies the Program Administrator and its compensation, contains a copy of the executed Program Administrator Agreement, and implements all of the other tariff changes described above.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Commonwealth Edison Company's proposed revisions to Rate BES-H filed on August 29, 2006, are permanently canceled and annulled.

IT IS FURTHER ORDERED that Commonwealth Edison Company shall, no later than December 27, 2006, make a compliance filing in which includes an executed copy of the Program Administrator Agreement and also identifies the entity serving the role of Program Administrator and the amount of compensation to be paid for that service, as well as implements all of the tariff changes described in this Order. The effective date of all tariff changes shall be January 2, 2007.

IT IS FURTHER ORDERED that Commonwealth Edison company shall provide the Program Administrator with all information necessary to perform the Program Administrator's duties, including, but not limited to, customer, account, and energy use data.

IT IS FURTHER ORDERED that any motions, petitions, objections, and other matters in this proceeding that remain outstanding are hereby denied.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Admin. Code § 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission on this 6th day of December, 2006.

(SIGNED) CHARLES E. BOX

Chairman